

TITLE 16. Medical Board of California

NOTICE IS HEREBY GIVEN that the Medical Board of California (hereinafter referred to as the "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Sheraton Gateway Hotel and Marina, 1380 Harbor Island Drive, San Diego, CA 92101 at 9:00 a.m., on October 26, 2012. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on October 15, 2012, or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2018 and 3575 of the Business and Professions Code, and to implement, interpret or make specific Sections 3575 and 3577 of said Code, the Medical Board of California is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

A. Informative Digest

Existing law allows the Medical Board of California (Board) to register polysomnographic technicians in California. One of the requirements is for the applicant to be certified in Basic Life Support by the American Heart Association. The effect of this proposed action will be to add another authorized vendor, the American Health and Safety Institute, as an additional vendor to satisfy this requirement.

A petition to amend the current regulation was filed with the Board on May 4, 2012 and was heard on July 20, 2012, at the Board's quarterly meeting held in Sacramento, CA. The Board granted the petition to amend section 1379.50 in Article 3 of Chapter 4.3 of Division 13, Title 16, relating to Polysomnography Qualifications for Registration.

B. Policy Statement Overview/Anticipated Benefits of Proposal

Applicants for a Polysomnography Registration will have more options to choose from when obtaining the required Basic Life Support Certification.

C. Consistency and Compatibility with Existing State Regulations

This Board has evaluated this regulatory proposal and it is not inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The Board does not license businesses, the Board licenses individuals; therefore, there is no impact on small businesses or any business.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have a significant adverse economic impact on the creation of jobs or new businesses or the elimination

of jobs or existing businesses or the expansion of businesses in the State of California.

The regulation impacts those persons applying to the Board for a Polysomnography Technologist, Technician or Trainee Registration.

The proposed regulation may create or save jobs in California as it allows for an additional approved Basic Life Support training organization to provide training to applicants who are applying for one of three Polysomnography Registrations that are issued by the Board.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person or by accessing the Board's website:
http://www.medbd.ca.gov/laws/regulations_proposed.html.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below **[or by accessing the Web site listed below]**.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Curt Worden, Chief of Licensing
Medical Board of California
Address: 2005 Evergreen Street, Suite 1200
Sacramento, CA 95815
Telephone No.: (916) 263-2389
Fax No.: (916) 263-2387
E-Mail Address: regulations@mbc.ca.gov

The backup contact person is:

Name: Christine Valine
Medical Board of California
Address: 2005 Evergreen Street, Suite 1200
Sacramento, CA 95815
Telephone No.: (916) 263-2466
Fax No.: (916) 263-2387
E-Mail Address: chris.valine@mbc.ca.gov

Web site Access: Materials regarding this proposal can be found at
http://www.mbc.ca.gov/laws/regulations_proposed.html.

MEDICAL BOARD OF CALIFORNIA

Specific Language of Proposed Changes

Chapter 3.5. Polysomnography

Article 3. Qualifications for Registration

**Changes to text are shown with a single underline for new text
and with a strikeout for deleted text.**

Amend Section 1379.50 in Division 13 of Title 16 of the California Code of Regulations to read as follows:

§ 1379.50. Registration Requirements.

(a) Polysomnographic Trainee. In addition to the requirements set forth in Section 3575(c) of the Code, an applicant for registration as a polysomnographic trainee shall meet the following requirements:

- (1) Not be subject to denial under Section 3576 of the Code; and
- (2) Have either (A) a high school diploma or GED and six months of supervised direct polysomnographic patient care experience; or (B) be currently enrolled in an approved polysomnographic education program; and
- (3) Possess at the time of application a current certificate in Basic Life Support issued by the American Heart Association- or the American Health and Safety Institute.

(b) Polysomnographic Technician. In addition to the requirements set forth in Section 3575(c) of the Code, an applicant for registration as a polysomnographic technician shall meet the following requirements:

- (1) Not be subject to denial under Section 3576 of the Code; and
- (2) Have successfully completed an approved polysomnographic education program; and
- (3) Possess a minimum of six months experience as a registered polysomnographic trainee; and
- (4) Possess at the time of application a current certificate in Basic Life Support issued by the American Heart Association- or the American Health and Safety Institute.

(c)(1) Polysomnographic Technologist. An applicant for registration as a polysomnographic technologist shall meet the requirements set forth in Sections 3575 and 3576 of the Code and shall possess at the time of application a current certificate in Basic Life Support issued by the American Heart Association- or the American Health and Safety Institute.

(2) With respect to applications received on or before October 22, 2012, an applicant for registration as a polysomnographic technologist may satisfy the requirements of subdivision (b)(1) of section 3575 of the Code by submitting any of the following as proof that the applicant has been practicing polysomnography safely for at least five years:

(A) One or more declarations under penalty of perjury by a supervising physician attesting to the period of time the physician supervised the applicant, the tasks performed by the applicant, and the applicant's ability to practice polysomnography safely.

(B) A letter of good standing from each state in which the applicant is registered or licensed.

Note: Authority cited: Sections 2018 and 3575, Business and Professions Code. Reference: Sections 3575 and 3577, Business and Professions Code.

NOTE: Authority cited: Section 2018, Business and Professions Code; Reference: Sections 138 and 680, Business and Professions Code.

**MEDICAL BOARD OF CALIFORNIA
INITIAL STATEMENT OF REASONS**

Hearing Date: October 26, 2012

Subject Matter of Proposed Regulations: Polysomnography Program

(3) Sections Affected: Title 16, Section 1379.50(a)(3), 1379.50(b)(4), and 1379.50(c)(1)

Introduction

Senate Bill (SB) 132, Denham, (Statutes of 2009) adding Chapter 7.8 to Division 2 of the Business and Professions Code, took effect as an urgency measure on October 23, 2009. SB 132 required the Medical Board of California (Board) to adopt regulations within one year of the effective date of this act relative to the qualifications for certified Polysomnographic Technologists, including requiring those technologists to: be credentialed by a board-approved national accrediting agency; have graduated from a board-approved educational program; and, have passed a board-approved national certifying examination (with a specified exception for that examination requirement for a three-year period).

Additionally, SB 132 prohibits a person from using the title "certified Polysomnographic Technologist" or engaging in the practice of polysomnography unless: he or she undergoes a Department of Justice background check, as specified; is registered as a certified Polysomnographic Technologist; is supervised and directed by a licensed physician and surgeon; and meets other requirements. SB 132 also defines polysomnography to mean the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders. SB 132 further requires the board to adopt regulations related to the employment of Polysomnographic Technologists, Technicians and Trainees.

Pursuant to SB 132, regulations were filed on January 19, 2012. California Code of Regulations, Title 16, Chapter 4.3, Section 1379.50 requires polysomnographic applicants to possess at the time of application a current certificate in Basic Life Support issued by the American Heart Association.

A petition to amend the current regulations was filed by the American Health and Safety Institute with the Board on May 4, 2012 and was heard on July 20, 2012 at the Board's quarterly meeting held in Sacramento, CA. The Board granted the petition and therefore this regulatory amendment follows.

Specific Purpose of each amendment:

Amend Section 1379.50 (a)(3) (Registration Requirements) This subsection specifies the requirements for registration as a Polysomnographic Trainee. Amendment would remove the requirement that Basic Life Support certification only be provided by the

American Heart Association, and would instead require an applicant to possess at the time of application a current certificate in Basic Life Support issued by the American Heart Association or the American Health and Safety Institute.

Amend Section 1379.50 (b)(4) (Registration Requirements) This subsection specifies the requirements for registration as a Polysomnographic Technician. Amendment would remove the requirement that Basic Life Support certification be provided by the American Heart Association, and would instead require an applicant to possess at the time of application a current certificate in Basic Life Support issued the American Heart Association or the American Health and Safety Institute.

Amend Section 1379.50 (c)(1) (Registration Requirements) This subsection specifies the requirements for registration as a Polysomnographic Technologist. Amendment would remove the requirement that Basic Life Support certification be provided by the American Heart Association, and would instead require an applicant to possess at the time of application a current certificate in Basic Life Support issued by the American Heart Association or the American Health and Safety Institute.

Factual Basis/Rationale:

Registration as a Polysomnographic Trainee, Technician, and Technologist requires that the applicant possess a Basic Life Support certification issued by the American Heart Association. The amendment would remove the requirement that Basic Life Support certification be provided only by the American Heart Association, and would instead require an applicant to possess at the time of application a current certificate in Basic Life Support issued by the American Heart Association or the American Health and Safety Institute.

The current regulations limit options available to those individuals seeking registration from the Board.

Underlying Data:

Technical, theoretical or empirical studies or reports relied upon (if any): Information from the American Academy of Sleep Medicine (AASM); Continuing Education Coordinating Board for Emergency Medical Services (CECBEMS); California Emergency Medical Services Authority, various California Emergency Medical Service agencies; and Council for Higher Education Association (CHEA).

Business Impact:

The Board has not identified any adverse economic impact to businesses that this regulation would cause.

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because this proposed amendment to the regulation represents the addition of an additional approved Basic Life Support certification that is required for registration as a Polysomnographic Trainee, Technician or Technologist. As such, it should not create or eliminate jobs within California.

It will not create new business or eliminate existing businesses within the State of California because this proposed amendment to the regulation represents the addition of an additional approved Basic Life Support certification that is required for registration as a Polysomnographic Trainee, Technician or Technologist. As such, it should not create new business or eliminate existing businesses within California.

- It will not affect the expansion of businesses currently doing business within the State of California because this proposed amendment to the regulation represents the addition of an additional approved Basic Life Support certification that is required for registration as a Polysomnographic Trainee, Technician or Technologist. As such, it should not affect the expansion of businesses currently doing business within California.
- This regulatory proposal benefits the health and welfare of California residents because this proposed amendment to the regulation will provide an additional Basic Life Support certification that is required for registration as a Polysomnographic Trainee, Technician and Technologist. Polysomnographic Trainees, Technicians and Technologist perform essential duties in sleep diagnosis centers. Thereby, providing needed services to the citizens of California.
- This regulatory proposal does not affect worker safety because this proposed amendment to the regulation will provide an additional Basic Life Support certification that is required for registration as a Polysomnographic Trainee, Technician and Technologist. As such, it should not affect worker safety.
- This regulatory proposal does not affect the state's environment because this proposed amendment to the regulation will provide an additional Basic Life Support certification that is required for registration as a Polysomnography Trainee, Technician and Technologist.. As such, it should not the state's environment.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected:

- The alternative, not to allow an additional provider of certification in Basic Life Support was considered. However, as this limits the opportunity for the applicants, this alternative was rejected.